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15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19 RICHARD KADREY, *et al.*,
20 Individual and Representative Plaintiffs,
21 v.
22 META PLATFORMS, INC., a Delaware
corporation;
23 Defendant.
24
25
26
27
28

Case No. 3:23-cv-03417-VC

DECLARATION OF JUDD LAUTER

Discovery Cut-Off: December 13, 2024
Date Action Filed: July 7, 2023

1 I, Judd Lauter, declare as follows:

2 1. I am a Special Counsel at the law firm of Cooley LLP and am counsel to Defendant
3 Meta Platforms, Inc. (“Meta”) in the above-captioned case. I have personal knowledge of the facts
4 contained in this Declaration and, if called upon as a witness, could competently testify to them
5 under oath.

6 2. Attached hereto as **Exhibit A** is a true and correct copy of the draft Stipulation and
7 [Proposed] Order re Scheduling of Deposition with respect to Meta’s CEO, Mark Zuckerberg,
8 which counsel for Meta drafted based upon the Parties agreement to the same.

9 3. On October 8, 2024, Plaintiffs served their Amended Notice of Deposition Pursuant
10 to Fed. R. Civ. P. 30(B)(6) to Meta Platforms, Inc. (“Plaintiffs’ Amended Rule 30(b)(6) Notice”),
11 a true and correct copy of which is attached hereto as **Exhibit B**.

12 4. Meta served its responses and objections to the same on October 28, 2024, a true
13 and correct copy of which is attached hereto as **Exhibit C**.

14 5. Counsel for the parties held a meet and confer concerning Plaintiffs’ amended
15 30(b)(6) notice on Tuesday, October 29, 2024.

16 6. During the October 29 meet and confer, I asked about the relevance of Topic 5 of
17 Plaintiffs’ Amended Rule 30(b)(6) Notice, which calls for testimony on “Meta’s policies and
18 procedures regarding its adherence to any laws or regulations, including the EU AI Act, that require
19 transparency around the datasets used to train AI models, require authorization from rightsholders
20 for the use of the text and data in training AI models, and require disclosure of the use of any
21 copyrighted materials to train an AI model.”

22 7. In response, Plaintiffs’ counsel was unable to articulate how or why Topic 5 was
23 relevant to this case and instead offered only conclusory statements of relevance.

24 8. Further, Plaintiffs’ counsel refused to identify the specific federal, state, or non-U.S.
25 laws or regulations encompassed under Topic 5, except that it includes the EU AI Act and
26 unspecified recent legislation in California and Colorado.

27 9. Based on their briefing in conjunction with this matter, Plaintiffs appear to be
28 referencing AB 2013, a new California law that imposes certain transparency requirements around

1 AI training data, and the Colorado Artificial Intelligence Act. The former imposes certain
 2 transparency requirements around datasets used for AI, while the latter is primarily focused on
 3 regulating high risk uses of AI. Neither has anything to do with copyright law, which is a federal
 4 statute that expressly preempts state and common law pursuant to 17 U.S. Code § 301.

5 10. A true and correct copy of a blog post published by Cooley LLP concerning AB
 6 2013 is attached hereto as **Exhibit D**.

7 11. A true and correct copy of a blog post published by the law firm Skadden is attached
 8 hereto as **Exhibit E**.

9 12. Upon information and belief, the “EU AI Act” referenced in Topic 5 pertains to
 10 “Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024
 11 Laying Down Harmonised Rules on Artificial Intelligence and Amending Regulations (EC) No
 12 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU)
 13 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828,” a true and correct
 14 copy of which is attached hereto as **Exhibit F**.

15 13. Article 113 of such EU AI Act states that the act shall not apply until August 2,
 16 2026, except as to certain sections that will apply no earlier than February 2, 2025.

17 14. Attached hereto as **Exhibit G** is a true and correct copy of the October 30, 2023,
 18 Comments of Meta Platforms, Inc., filed in response to the U.S. Copyright Office Notice of Inquiry
 19 on Artificial Intelligence & Copyright (Dkt. 2023–6).

20 15. Public reporting indicates that Meta has declined to release its AI models in the EU
 21 due to concerns around privacy regulations, not copyright concerns (which are not referenced in
 22 the article cited by Plaintiffs). Attached hereto as **Exhibit H** is a true and correct copy of a
 23 *Guardian* article discussing the issue.

24 16. Attached hereto as **Exhibit I** is a true and correct copy of the October 21, 2024,
 25 email from Plaintiffs’ counsel, Mr. Maxwell Pritt, and the earlier emails in that chain, which first
 26 raised Plaintiffs’ purported issues with Meta’s custodial productions. This email chain was
 27 principally about Meta’s efforts to schedule depositions. Mr. Pritt indicated on October 20, 2024,
 28 in the same Exhibit, that in light of Meta informing Plaintiffs that it did not represent Mr. Lample,

1 Mr. Grave and Mr. Rodriguez, Plaintiffs swapped their names for other deponents.

2 17. Attached hereto as **Exhibit J** is a true and correct copy of the September 6, 2024,
3 email from Meta's counsel to Plaintiffs' counsel, which informed Plaintiffs that the following
4 individuals were no longer employed at Meta and provide their last known location: "Moya Chen
5 (Bay Area), Tim Dettmers (Seattle), Susan Zhang (Bay Area), Aurelian Rodriguez (Paris),
6 Guillaume Lample (Paris), Xavier Martinet (Paris), and Edouard Grave (Paris)."

7
8 I declare under penalty of perjury that the foregoing is true and correct. Executed on this
9 31st day of October at Berkeley, California.

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11
12 /s/ Judd Lauter
Judd Lauter